



MAIL STOP PETITION

*tw*  
*DAK*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: W. B. Hall

Attorney Docket No.: KCOS-1-22355

Application No.: 10/648,851

Art Unit: 3728 / Confirmation No.: 3859

Filed: August 26, 2003

Examiner: J.T. Kavanaugh

Title: BOOT LINER WITH ANKLE AND HEEL VOLUME CONTROL

PETITION TO REVIVE U.S. PATENT APPLICATION NO. 10/648,851 -

OFFICE ACTION NOT RECEIVED

Seattle, Washington 98101

August 15, 2006

TO THE COMMISSIONER FOR PATENTS

ATTN: OFFICE OF PETITIONS:

This is a Petition to Withdraw Holding of Abandonment for U.S. Patent Application No. 10/648,851 based on non-receipt of an OFFICE ACTION mailed May 27, 2005.

The petition fee of \$500 is included in attached Check No. 171814. If any additional fees are required, please charge the fee to Deposit Account No. 03-1740. A copy of this document is enclosed.

A response to the Office Action is attached.

Further attached is a Declaration of Jerald E. Nagae, providing an adequate showing that the cause of the delay and the entire delay in filing the required response to the Office Action from the due date for the response until the filing of a grantable petition under 37 C.F.R. 1.137(a), were unavoidable.

08/21/2006 HGUTEMAI 00000012 10648851

01 FC:1452 500.00 OP

Adjustment date: 11/02/2006 CKHLOK

08/21/2006 HGUTEMAI 00000012 10648851

01 FC:1452 -500.00 OP

Refund Ref:

11/02/2006 CKHLOK 0000154605

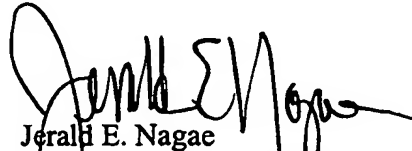
CHECK Refund Total: \$500.00

LAW OFFICES OF  
CHRISTENSEN O'CONNOR JOHNSON KINDNESS<sup>LLC</sup>  
1420 Fifth Avenue  
Suite 2800  
Seattle, Washington 98101  
206.682.8100

Based on the foregoing, Applicant respectfully requests that the Holding of Abandonment be withdrawn and that prosecution of the present application be resumed.

Respectfully submitted,

CHRISTENSEN O'CONNOR  
JOHNSON KINDNESS<sup>PLLC</sup>



Jerald E. Nagae  
Registration No. 29,418  
Direct Dial No. 206.695.1705

I hereby certify that this correspondence is being deposited with the U.S. Postal Service in a sealed envelope as first class mail with postage thereon fully prepaid and addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the below date.

Date: August 15, 2006



JEN:jlg

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Suite 2800  
Seattle, Washington 98101  
206.682.8100



**MAIL STOP PETITION**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: W. B. Hall Attorney Docket No.: KCOS122355  
Application No.: 10/648,851 Art Unit: 3728 / Confirmation No: 3859  
Filed: August 26, 2003 Examiner: J.T. Kavanaugh  
Title: BOOT LINER WITH ANKLE AND HEEL VOLUME CONTROL

**DECLARATION OF JERALD E. NAGAE IN SUPPORT OF PETITION TO REVIVE**

**U.S. PATENT APPLICATION NO. 10/648,851 BASED ON**

**AN OFFICE ACTION NOT RECEIVED**

Seattle, Washington 98101

August 15, 2006

TO THE COMMISSIONER FOR PATENTS:

The undersigned, Jerald E. Nagae, hereby declares as follows:

1. I, Jerald E. Nagae, am the prosecuting attorney of record for U.S. Patent Application No. 10/648,851, filed August 26, 2003, entitled, "Boot Liner with Ankle and Heel Volume Control."
2. This Declaration is being filed in support of a Petition to Revive U.S. Patent Application No. 10/648,851 pursuant to M.P.E.P. § 711.03(c)(II).
3. The undersigned has recently learned that an Office Action having a mailing date of May 27, 2005, was erroneously mailed to the former attorney of record, Black Lowe & Graham PLLC, 816 Second Avenue, Seattle, WA 98104. This Office Action was subsequently returned to the U.S. Patent and Trademark Office (PTO) via mail and stamped "RECEIVED JUN 08 2005 TECHNOLOGY CENTER R3700" upon receipt by the PTO.

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4. In a telephone call to Examiner J. Ted Kavanaugh by my assistant, Hilda DeGraaff, on May 4, 2006, the Examiner advised that when the Office Action was returned to the PTO, it was not mailed out again. Examiner Kavanaugh further advised that even though the USPTO had mailed the Office Action to the incorrect law firm and a notice of abandonment had not been issued, a petition to revive the present application was required.
5. I have searched the file, including the file jacket, and docket records for the above-referenced application, and have confirmed that the Office Action of May 27, 2005, was not received by our office. It is our office's procedure to docket dates associated with all papers received from the USPTO upon receipt and prior to forwarding the paper to the assigned attorney.
6. A copy of the docket and the file jacket from the above-referenced application, where a record of the receipt of the document would have been recorded had it been received, is attached as Exhibit A.
7. I did not know that an Office Action had been mailed prior to May 4, 2006, and on information and belief, no one in our office was aware that the Office Action was mailed prior to May 4, 2006.
8. The present application was filed incomplete on December 17, 2003. On March 5, 2004, with the Response to Missing Parts of Non-Provisional Application, a Power of Attorney in favor of the undersigned was submitted to the Office with a request to address all correspondence to Customer No. 26389. No Power of Attorney was submitted with the application as originally filed. A copy of such Power of Attorney is attached as Exhibit B.

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9. Subsequently, on May 3, 2005, in response to the Restriction Requirement of March 3, 2005, the undersigned noted to the Office that the Combined Declaration and Power of Attorney of Exhibit B had not been processed by the Office, in that the Restriction Requirement had been sent to the firm of Black Lowe & Graham, rather than properly to the undersigned. It was requested that the Office update its records with respect to the present application. Apparently this request was ignored, causing the Office Action of May 27, 2005, to be sent to the wrong law firm. The Response to Restriction Requirement is attached hereto as Exhibit C.

I hereby further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

August 15, 2006  
Date

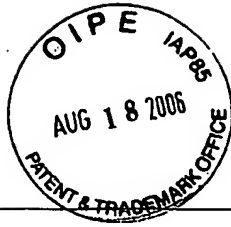
Jerald E. Nagae  
Jerald E. Nagae  
Registration No. 29,418  
Direct Dial No. 206.695.1705

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Date: August 15, 2006  
JEN:jljg

Jeffrey I. Granger

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Seattle, Washington 98101  
206.682.8100



## EXHIBIT A

KCOS-1-0022355

Boot Liner/Ankle & Heel Volume...

Seq	Type	Subtype	Action	Due	Completed
13	FU	NOA	Office Action/Notice of Allowance?	5/3/2006	
14	FU	MI	Response/Petition?	7/10/2006	
5	FU	MP	Missing Parts?	3/2/2004	3/5/2004
2	AL	AL	Anniversary Letter	5/26/2004	7/20/2004
3	RM	RM	Convention Filing	8/26/2004	8/24/2004
4	FU	NOA	Office Action/Notice of Allowance?	7/3/2004	3/8/2005
6	PP	RR	Restriction Required	4/3/2005	5/3/2005
7	PP	RR	Restriction Required 1st Extension	5/3/2005	5/3/2005
8	PP	RR	Restriction Required 2nd Extension	6/3/2005	5/3/2005
9	PP	RR	Restriction Required 3rd Extension	7/3/2005	5/3/2005
10	PP	RR	Restriction Required 4th Extension	8/3/2005	5/3/2005
11	PP	DDRR	Restriction Required 5th Extension/Drop Dead	9/3/2005	5/3/2005
12	FU	NOA	Office Action/Notice of Allowance?	10/3/2005	3/1/2006

Organization **TC3700** Bldg. **RANDOLPH**

U. S. DEPARTMENT OF COMMERCE

COMMISSIONER FOR PATENTS

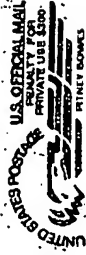
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ALEXANDRIA, VA 22313-1450

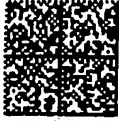
IF UNDELIVERABLE RETURN IN TEN DAYS

OFFICIAL BUSINESS

AN EQUAL OPPORTUNITY EMPLOYER



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\$00.83<sup>0</sup>  
MAY 27 2005  
MAILED FROM ZIP CODE 22314



BLAC816\* 981042029 1304 08 06/02/05  
FORWARD TIME EXP RTN TO SEND  
BLACK LOWE & GRAHAM  
701 5TH AVE STE 4800  
SEATTLE WA 98104-7009

RETURN TO SENDER



RECEIVED  
JUN 08 2005  
TECHNOLOGY CENTER F3703

**UNITED STATES PATENT & TRADEMARK OFFICE**  
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND											
1 Date of Request: 10/31/06		2 Serial/Patent # 10/648,851									
3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT							
	Filing			\$							
	Amendment			\$							
	Extension of Time (2253)			\$							
	Notice of Appeal/Appeal			\$							
X	Petition (1452)		08/18/06	\$ 500.00							
	Issue			\$							
	Cert of Correction/Terminal Disc.			\$							
	Maintenance			\$							
	Assignment			\$							
	Other			\$							
			7 TOTAL AMOUNT OF REFUND		\$ 500.00						
			8 TO BE REFUNDED BY:								
10 REASON:			X	Treasury Check							
	Overpayment	Credit Deposit A/C #:									
	Duplicate Payment	9 <table border="1" style="display: inline-table; border-collapse: collapse;"><tr><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px; text-align: center;">--</td><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td></tr></table>						--			
		--									
X	No Fee Due (Explanation):										
Pet. Granted under 1.181											
11 REFUND REQUESTED BY:											
TYPED/PRINTED NAME: Charlema Grant		TITLE: Atty									
SIGNATURE: /Charlema Grant/		PHONE: X-3215									
OFFICE: OP											
***** THIS SPACE RESERVED FOR FINANCE USE ONLY: *****											
APPROVED:		DATE: 11/2/06									

*Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:*